



APR 6 2001

EPA Region 5 Records Ctr.



275035

REPLY TO THE ATTENTION OF

SR-6J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Dick Clarke  
c/o Gary F. Franke, Esq.  
120 E. 4th Street, Suite 560  
Cincinnati, OH 45202

Re: Request for Information Pursuant to Section 104(e) of CERCLA for the Skinner Landfill Site in West Chester, Ohio, Butler County

Dear Mr. Clarke:

The United States Environmental Protection Agency (U.S. EPA or Agency) is investigating the release or threat of release of hazardous substances, pollutants or contaminants at the Skinner Landfill Site. The U.S. EPA is seeking information concerning the generation, storage, treatment, transportation, and disposal methods of hazardous substances that have been, or threaten to be, released from the Site. The U.S. EPA believes that you possess information which may assist the Agency in its investigation of the Site. Enclosure 1 is a summary of the information that U.S. EPA has about the Site and of the Agency's activities there.

We encourage you to give this matter your immediate attention. Please provide a complete and truthful response to this Information Request and its questions in Enclosure 2 within 14 days of your receipt of this letter. Instructions to guide you in the preparation of your response are in Enclosure 3. Definitions of the terms used in this Information Request and in the questions are in Enclosure 4.

You may consider *confidential* the information that U.S. EPA is requesting. Under CERCLA you may not withhold information on that basis, but you may ask U.S. EPA to treat the information as confidential. To ask that the Agency treat your information as confidential, you must follow the procedures outlined in Enclosure 5, including the requirement that you support your claim for confidentiality.

We make this request under the federal **Superfund** law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.*, commonly referred to as **CERCLA** or **Superfund**). The Superfund law gives U.S. EPA the authority to assess the

threats to human health and the environment posed by contaminated sites and to cleanup those sites. Under Section 104(e)(2) of CERCLA, 42 U.S.C. Section 9604 (e)(2), the U.S. EPA has information-gathering authority that allows the Agency to require persons and corporations to furnish information or documents. Enclosure 6 is a summary of the legal authority.

Compliance with this Information Request is mandatory. The Superfund statute provides that failure to answer the questions fully and truthfully, and within the prescribed time frame, can result in an enforcement action and penalties. Other statutes provide that the submission of false, fictitious statements, or misrepresentations can result in sanctions.

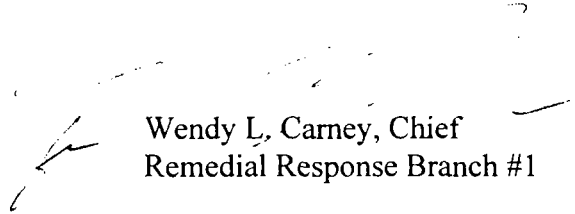
The U.S. EPA has the authority to use the information that it requests in an administrative, civil, or criminal action. This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. section 3501 et seq.

Please respond to the information request within fourteen (14) days of this notice. Responses should be directed to:

Fouad Dababneh, Enforcement Specialist  
U.S. EPA, Region 5 (SR-6J)  
77 West Jackson Blvd.  
Chicago, Illinois 60604

If you have any legal questions about the Site or this letter, please call Craig Melodia, Assistant Regional Counsel, at (312) 353-8870. If you have technical questions about this Site, please call Scott Hansen, Remedial Project Manager, at (312) 886-1999. We appreciate your assistance and look forward to your prompt response to this Information Request.

Sincerely,



Wendy L. Carney, Chief  
Remedial Response Branch #1

Enclosures:

1. Site History
2. Questions
3. Instructions
4. Definitions
5. Confidential Business Information
6. Legal Authority
7. Supplemental Information for Small Business



U.S. ENVIRONMENTAL PROTECTION AGENCY

REGIONAL OFFICE  
CHICAGO, IL 60604-3590

APR 6 2011

REPLY TO THE ATTENTION OF

SR-6J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Marty Clarke  
c/o David J. Schmitt, Esq.  
Cors & Bassett  
537 East Pete Rose Way, Suite 400  
Cincinnati, OH 45202-3502

Re: Request for Information Pursuant to Section 104(e) of CERCLA for the Skinner Landfill Site in West Chester, Ohio, Butler County

Dear Mr. Clarke:

The United States Environmental Protection Agency (U.S. EPA or Agency) is investigating the release or threat of release of hazardous substances, pollutants or contaminants at the Skinner Landfill Site. The U.S. EPA is seeking information concerning the generation, storage, treatment, transportation, and disposal methods of hazardous substances that have been, or threaten to be, released from the Site. The U.S. EPA believes that you possess information which may assist the Agency in its investigation of the Site. Enclosure 1 is a summary of the information that U.S. EPA has about the Site and of the Agency's activities there.

We encourage you to give this matter your immediate attention. Please provide a complete and truthful response to this Information Request and its questions in Enclosure 2 within 14 days of your receipt of this letter. Instructions to guide you in the preparation of your response are in Enclosure 3. Definitions of the terms used in this Information Request and in the questions are in Enclosure 4.

You may consider *confidential* the information that U.S. EPA is requesting. Under CERCLA you may not withhold information on that basis, but you may ask U.S. EPA to treat the information as confidential. To ask that the Agency treat your information as confidential, you must follow the procedures outlined in Enclosure 5, including the requirement that you support your claim of confidentiality.

We make this request under the federal **Superfund** law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., commonly referred to as **CERCLA** or **Superfund**). The Superfund law gives U.S. EPA the authority to assess the

## ENCLOSURE I

### SITE HISTORY

The 78-acre Skinner Landfill Site is located on a ridge above the east fork of Mill Creek in West Chester. The landfill accepted hazardous and demolition wastes since the late 1950s. The actual landfill area covers approximately ten acres and includes a lagoon less than one acre in size, containing hazardous waste and approximately 100 drums of solvents, pesticides, and heavy metals. Approximately 40 feet of demolition material are on top of this lagoon. Demolition waste was accepted until July, 1990. The remaining sixty acres of the site contain scrap metal, the owner's residence, and buildings used by the owner for his general contracting business. Waste disposed at the landfill was municipal, commercial, industrial and construction waste. Liquid sludge in the on-site lagoon is contaminated with heavy metals including cyanide, cadmium, and chromium; VOCs and semi-VOCs; pesticides; PCBs; dioxins; and furans. Groundwater is contaminated with various VOCs and semi-VOCs. Two creeks that border the Site contain sediments contaminated with VOCs from sludge migration.

U. S. Environmental Protection Agency (U.S. EPA) placed the Skinner Landfill Site on the National Priorities List (NPL) in December 1982. U.S. EPA completed Phase I and II Remedial Investigations (RI), which included the sampling of groundwater, surface water and soils. Contaminants of concern detected include volatile organic compounds (VOCs), semi-VOCs, pesticides, metals, polychlorinated biphenyls (PCBs), dioxins and furans. The Feasibility Study (FS) was completed in April, 1992. A Record of Decision (ROD) for an interim action Operable Unit (OU) was signed by the Regional Administrator of Region 5, U.S. EPA, on September 30, 1992. The ROD consisted of site fencing, connections to the Butler County public water system for potentially affected local users of groundwater, and groundwater monitoring.

The ROD for the final OU at the site was signed on June 4, 1993. The final ROD called for a multi-layered Resource Conservation and Recovery Act (RCRA) cap, which will be constructed over the area covered by the former dump and the buried waste lagoon. Any contaminated materials found outside of the area to be capped, including contaminated soils found in buried waste pits on-site, will be dug up and moved onto the area to be covered by the cap. Contaminated groundwater down gradient of the area to be capped will be intercepted, captured, and discharged to the Publicly Owned Treatment Works (POTW).

U.S. EPA initiated an Alternative Dispute Resolution (ADR) convening procedure resulting in a privately-funded agreement to use a neutral party to allocate responsibility for response costs. Almost simultaneously, the Skinner Steering Committee filed contribution lawsuits against most of the PRPs named by U.S. EPA (and a few municipalities which the Agency did not name). The Federal Court in the contribution case issued a case management order making the private allocation procedure mandatory for all of the contribution defendants. Most of the defendants participated in the allocation procedure and the allocator issued his final findings in a report dated April 12, 1999. U.S. EPA was not a party to the allocation procedure and under the Federal Court's case management order, U.S. EPA does not have access to the allocator's report. Special Notice Letters were sent to the PRPs in February 1999, to initiate Remedial Action (RA)

negotiations. The Consent Decree (CD) negotiated by the parties was signed in April 2000. The Federal Court entered the CD on April 2, 2001. The Final RA consists of a groundwater interception trench, a landfill cap, and long-term Operation and Maintenance (O & M). Construction is expected to begin in April 2001.

## ENCLOSURE 2

### QUESTIONS

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests, and provide copies of all such documents.
3. Identify all persons known to you who may be able to provide information of any kind relevant to the subject matter addressed in these Information Requests. For each such person, identify, as completely as possible, any and all information that you know or believe they may have with respect to Respondent's possible connection to the Skinner Site, or any other matter addressed in these Information Requests.
4. List the name(s), primary place(s) of business, dates of operation, and EPA Identification Number(s) for each of Respondent's current and former businesses, as well as any predecessors in interest, successors in interest, and any subsidiaries. Provide the information requested for all predecessors and successors in interest regardless of whether you believe Respondent has liability for their activities at the Site or they have liability for Respondent's activities at the Site.
5. Describe the business structure (e.g., corporation, partnership, sole proprietorship) of each of Respondent's current and former businesses, including any predecessors in interest, successors in interest, and any subsidiaries. Include in the description, but do not necessarily limit it to, the following:
  - a) The names, titles, and duties of the directors, officers and major shareholders for each predecessor in interest, successor in interest, and any subsidiaries at the time of: (i) their incorporation, (ii) sale of a major interest in stock or merger with a successor in interest, (iii) sale of assets, or (iv) dissolution or bankruptcy;
  - b) With regard to any mergers, sales of a majority interest in stock, or a sale of assets, provide a copy of all transaction-related documents, including but not limited to the final sales contract or purchase agreement executed between the parties, and all schedules, appendices, exhibits, valuations or appraisals of assets or other attachments; also identify all purchasers or recipients of any mergers, sales of a major interest in stock, or sales of assets;
  - c) All customers of any predecessor in interest in its last year of operation prior to any merger, sale of a majority interest in stock, or sale of assets, and all customers and suppliers of any successor in interest in its first two years of operation;
  - d) All supervisory personnel and employees of any predecessor in its last year of operation prior to any merger, sale of any major interest in stock or sale of assets, and all supervisory personnel and employees of any successor in interest in its first two years of operation subsequent to any merger, stock sale or sale of assets;

- e) The location of the predecessor's business, its methods, and/or procedures, including the transport, storage, treatment or disposal of all waste material or hazardous substances, sale of any major interest in stock, or sale of assets with Respondent's business. Further identify the areas of the predecessor's business which were continued and the areas which were discontinued after the merger or sale, and the date of discontinuance;
  - f) Any and all obligations and liabilities of any predecessor in interest that were assumed by Respondent, and any and all obligations and liabilities of Respondent that were assumed by any successor in interest;
  - g) Any re-location of the business operations by a successor in interest, from the place where such operations were conducted by a predecessor in interest, including the date and reasons for such re-location;
  - h) Any appraisals or valuation of assets that were created or produced as part of negotiations for mergers, sales or purchases of major interests in stock, or sales of assets, whether or not such transactions were consummated.
6. Provide a copy of the Articles of Incorporation and By-Laws for each of Respondent's businesses, Respondent's predecessors in interest, Respondent's successors in interest, including any subsidiaries of any of the aforementioned parties. If the Articles of Incorporation do not otherwise indicate, identify the state in which each entity is incorporated.
7. Provide a copy of any Articles of Dissolution for any of Respondent's current or former businesses and/or predecessors in interest, its successors in interest, including any subsidiaries of any of the aforementioned parties.
8. For any of the entities identified in the Answer to Question #7, above, which have dissolved, provide a copy of that entity's annual report for the year in which it dissolved, and copies of any dissolved entities' successors-in-interest's annual reports for the first three years after its (their) incorporation.
9. Identify all liability insurance policies held by Respondent from 1954 to the present. In identifying such policies, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, nonsudden, or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.
10. Provide copies of Respondent's income tax returns sent to the Federal Internal Revenue Service in the last three years.
11. If any of Respondent's current or former businesses are/were incorporated, respond to the following requests for each corporate entity:
- a) Provide a copy of the Articles of Incorporation and By-Laws;
  - b) Provide financial statements for the past five fiscal years, including, but not limited to those filed with the Internal Revenue Service and Securities and Exchange Commission;

- c) Identify all current assets and liabilities and the person(s) who currently owns (own) or is (are) responsible for such assets and liabilities;
  - d) Identify the Parent Corporation and all Subsidiaries of the corporation.
- 12. If any of Respondent's current or former businesses are/were a partnership, provide a copy of the Partnership Agreement.
- 13. If any of Respondent's current or former businesses are/were a trust, provide all relevant agreements and documents to support this claim, including a list of the trust's assets and any distributions made by the trustee within the last three years.
- 14. For each of Respondent's current and former businesses, including any predecessors in interest, successors in interest, and any subsidiaries, identify any and all acts or omissions that may have caused the release or threat of release of any hazardous substances, pollutants or contaminants at the Skinner Landfill Site.
- 15. For each of Respondent's current and former businesses, including any predecessors in interest, successors in interest, and any subsidiaries, identify each vehicle used for the transport of material, including but not limited to refuse, garbage, demolition/construction debris, waste material, or hazardous substances. For each such vehicle, identify the type (e.g., dump truck, tanker), capacity (in cubic yards or gallons), color, any identifying marks (e.g., logos or names on vehicle), and the years such vehicle was in service.
- 16. Has the Respondent, including any of the Respondent's current or former businesses, predecessors in interest, successors in interest, or subsidiaries, or any other person working with or on behalf of the Respondent ever accepted any material, including refuse, garbage, demolition/construction debris, waste material or hazardous substances, for transportation to the Site from any person? If the answer to this question is anything but an unequivocal no, identify:
  - a) The person(s) with whom Respondent made such arrangements;
  - b) Every date on which such an arrangement took place;
  - c) For each transaction, the nature of the material, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the material was used, or the process which generated the material;
  - d) The owner of the material so accepted or transported;
  - e) For each owner the quantity of the material accepted (weight or volume) for each transaction and the total quantity for all transactions;
  - f) Copies of all receipts, manifests or waste tickets for each transaction, as well as copies of any tests, analyses, or analytical results concerning the material accepted for transport and/or disposal;
  - g) For each transaction the person(s) who selected the Site as the place to which the material was to be transported;
  - h) The amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received;



- i) The location to which the person identified in g., above, intended to have such material transported and disposed, and all evidence of this intent (e.g., letters, contracts);
  - j) The name, location, and owner of any intermediate site where the material involved in each transaction was transhipped through, treated, stored, commingled with other waste, or held; for each transaction include the date the material was sent to the intermediate site, a description of how such material was handled, stored, treated, commingled or held, date it was transported off the intermediate site, and the ultimate disposal location of the material;
  - k) How the material was handled once transported to the Site, and where it was left or disposed of at the Site;
  - l) The final disposition or disposal site of the material involved in each transaction;
  - m) The measures taken by Respondent to determine the actual methods, means, and site of treatment or disposal of the material involved in each transaction;
  - n) The measures taken by Respondent to ensure that no hazardous substances were included in any material that was transported to the Site;
  - o) The vehicle, including type (e.g., dump truck, tanker) and capacity (in cubic yards or gallons), used to transport the material in each transaction, and the type and number of containers in which the material was contained when it was accepted for transport, and all markings on such containers;
  - p) All documents containing information responsive to a - o above, or in lieu of identification of all relevant documents, provide copies of all such documents;
  - q) All persons with knowledge, information, or documents responsive to a - p above.
17. Respond to the following:
- a) Identify any report, study, interview, deposition, investigation or other document of which you are aware, that details Respondent's connection to the Skinner Landfill, including, but not limited to i) the transportation or disposal of any material at the Site, ii) the quantity (volume or weight), type (solid or liquid), and nature (composition) of such material, and iii) the dates of any such transport or disposal;
  - b) For each item identified in response to 17(a) above, further identify all persons that were interviewed, deposed, or investigated.
18. Provide a copy of any report, study, interview, deposition, investigation or other document identified in your response to question 17, above, which you are in possession of, limited only by any claims of privilege and/or confidentiality, in which case Respondent should identify the name, date, and length of the document withheld, and the basis for withholding the document.
19. Identify all persons employed at any time by Respondent, or its predecessors or successors in interest, who transported materials on behalf of Respondent and the approximate years they were employed by Respondent.

## ENCLOSURE 3

### INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.
2. Precede each answer with the number of the question to which it corresponds.
3. In answering each question, identify all persons and contributing sources of information.
4. Although the U.S. EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. Section 9604, authorizes the U.S. EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
5. In answering each question, identify all persons and contributing sources of information.
6. You must supplement your response to U.S. EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify U.S. EPA as soon as possible.
7. For any document submitted in response to a question, indicate the number of the question to which it responds.
8. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
9. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that this document and all enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those

person directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

10. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.
11. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Enclosure 5.

## ENCLOSURE 4

### DEFINITIONS

1. As used in this letter, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa.
2. The term **person** as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. **The Site** referenced in these documents shall mean the Skinner Landfill Site located in West Chester, Ohio.
4. The term **hazardous substance** shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.
5. The term, **pollutant** or **contaminant**, shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
6. The term **release** shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.
7. The term **identify** means, with respect to a natural person, to set forth the person's full name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
8. The term **identify** means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
9. The term **identify** means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

10. The term ***Respondent*** means Marty Clarke and any of his current or former businesses.

11. The term ***current or former business*** means Clarke Container, Inc., Clarke Incinerators, Inc., Clarke Container, Clarke's Sanitary Fill, Clarke's Complete Collection and Combustion, and any other business, sole proprietorship, corporation, partnership, or other enterprise owned or operated in whole or in part by Marty Clarke or at which Marty Clarke was employed and had as one of its purposes the transport, treatment, storage or disposal of material including but not limited to refuse, garbage, demolition/construction debris, waste material, or hazardous substances.

12. The term ***predecessor in interest*** means any individual, sole proprietorship, corporation, partnership, or other enterprise that the Respondent purchased in whole or in part, or from which Respondent assumed business operations, purchased assets, or retained employees or customers.

13. The term ***successor in interest*** means any individual, sole proprietorship, corporation, partnership, or other enterprise that succeeded Respondent and that continued the business operations of Respondent, purchased assets from the Respondent, or retained employees or customers of the Respondent.

14. The term ***subsidiary*** means any business, sole proprietorship, corporation, partnership, or other enterprise that currently is or was owned or operated in whole or in part by Respondent or one of his current or former businesses.

All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R., Part 300 or 40 C.F.R., Part 260-280, in which case, the statutory or regulatory definitions shall apply.

## ENCLOSURE 5

### CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (U.S. EPA or Agency) is requesting. You cannot withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 *et seq* require that the U.S. EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. [See 41 Federal Register 36902 *et seq.* (September 1, 1976); 43 Federal Register 4000 *et seq.* (December 18, 1985)]. If no such claim accompanies the information when the U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA), because, as stated in Section 104(e)(7) (ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the U.S. EPA to treat the information or record as "confidential", you must advise the U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential", and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether the U.S. EPA or other federal agency has made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;
6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. 2.201(I). If you make this assertion, explain how the disclosure would tend to lessen the ability of the U.S. EPA to obtain similar information in the future;
7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. 2.208(e), the burden of substantiating confidentiality rests with you. The U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. 2.205(c). If you do not identify this information and documents as "confidential", your comments will be available to the public without further notice to you.

## ENCLOSURE

### DESCRIPTION OF LEGAL AUTHORITY

The federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.* (commonly referred to as **CERCLA** or **Superfund**) gives U.S. EPA the authority to, among other things: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by each site, and, 3) clean up those sites.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. Section 9604 (e)(2), U.S. EPA has broad information gathering authority which allows U.S. EPA to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility, or transported to a vessel or facility;
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;
- C. The ability to pay the costs of the clean-up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to Section 104(e)(5) of CERCLA. This Section also authorizes an enforcement action with similar penalties if the recipient of the Request does not respond and does not justify the failure to respond. Other statutory provisions (18 U.S.C. Section 1001) authorize separate penalties if the responses contain false, fictitious or fraudulent statements. [If the 104(e) recipient is a witness with little likelihood of liability under CERCLA, omit the sentence that follows.] The U.S. EPA has the authority to use the information requested in this Information Request in an administrative, civil or criminal action.



## Supplemental Information for Small Businesses Subject to an U.S. EPA Enforcement Action

The United States Environmental Protection Agency (EPA) offers small businesses a wide variety of compliance assistance resources and tools designed to assist businesses to comply with federal and state environmental laws. These resources can help businesses understand their obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

### Websites

EPA offers a great deal of compliance assistance information and materials for small businesses on the following Websites, available through public libraries:

➡ <a href="http://www.epa.gov">www.epa.gov</a>	<i>EPA's Home Page</i>
➡ <a href="http://www.smallbiz-enviroweb.org">www.smallbiz-enviroweb.org</a>	<i>EPA's Small Business Home Page</i>
➡ <a href="http://www.smallbiz-enviroweb.org/state.html">www.smallbiz-enviroweb.org/state.html</a>	<i>List of State Contacts</i>
➡ <a href="http://www.epa.gov/ttn/sbap">www.epa.gov/ttn/sbap</a>	<i>Small Business Assistance Programs</i>
➡ <a href="http://www.epa.gov/oeca/polguid/index.html">www.epa.gov/oeca/polguid/index.html</a>	<i>Enforcement Policy and Guidance</i>
➡ <a href="http://www.epa.gov/oeca/smbusi.html">www.epa.gov/oeca/smbusi.html</a>	<i>Small Business Policy</i>
➡ <a href="http://www.epa.gov/oeca/oc">www.epa.gov/oeca/oc</a>	<i>Compliance Assistance Home Page</i>
➡ <a href="http://www.epa.gov/oeca/ccsmd/commpull.html">www.epa.gov/oeca/ccsmd/commpull.html</a>	<i>Small Businesses and Commercial Services</i>
➡ <a href="http://www.epa.gov/oeca/ccsmd/mun.html">www.epa.gov/oeca/ccsmd/mun.html</a>	<i>Small Communities Policy</i>

### Hotlines

EPA sponsors approximately 89 hotlines and clearinghouses that provide a free and convenient avenues to obtain assistance with environmental requirements. The Small Business Ombudsman Hotline can provide you with a list of all the hot lines and assist you with determining which hotline will best meet your needs. Key hotlines that may be of interest to you include:

➡ Small Business Ombudsman.....	(800) 368-5888
➡ RCRA/UST/CERCLA Hotline.....	(800) 424-9346
➡ Toxics Substances and Asbestos Information.....	(202) 554-1404
➡ Safe Drinking Water.....	(800) 426-4791
➡ Stratospheric Ozone/CFC Information.....	(800) 296-1996
➡ Clean Air Technical Center.....	(919) 541-0800
➡ Wetlands Hotline.....	(800) 832-7828

### Compliance Assistance Centers

EPA has established national compliance assistance centers, in partnership with industry, academic institutions, and other federal and state agencies, that provide on line and fax back assistance services in the following sectors heavily populated with small businesses:

- ➡ Metal Finishing ([www.nmfrc.org](http://www.nmfrc.org))
- ➡ Printing (1-888-USPNEAC or [www.pneac.org](http://www.pneac.org))
- ➡ Automotive (1-888-GRN-LINK or [www.ccar-greenlink.org](http://www.ccar-greenlink.org))

- Agriculture (1-888-663-2155 or [www.epa.gov/oecc/ag](http://www.epa.gov/oecc/ag))
- Printed Wiring Board Manufacturing ([www.pwbrc.org](http://www.pwbrc.org))
- The Chemical Industry (Contact: Emily Chow 202-564-7071)
- The Transportation Industry (<http://www.transource.org>)
- The Paints and Coatings Center (Contact: Scott Throwe 202-564-7013)
- Local Governments (Contact: John Dombrowski, 202-564-7036)

**State  
Agencies**

Many state agencies have established compliance assistance programs that provide on-site as well as other types of assistance. Please contact your local state environmental agency for more information. EPA's Small Business Ombudsman can provide you with State Agency contacts by calling (800)-368-5888.

**Compliance  
Incentive  
Policies**

EPA's Small Business Policy and Small Communities Policy are intended to promote environmental compliance among small businesses by providing incentives such as penalty waivers and reductions for participation in compliance assistance programs, and encouraging voluntary disclosure and prompt correction of violations. These policies can not be applied to an enforcement action such as this one that has already been initiated, but are noted for future reference. Contact Karin Leff (202-564-7068) for information on the Small Business Policy and Ken Harmon (202-564-7049) for information on the Small Communities Policy.

In order to improve your understanding of and compliance with environmental regulations and avoid the need for future enforcement actions, we encourage you to take advantage of these tools. ***However, please note that any decision to seek compliance assistance at this time does not relieve you of your obligation to answer EPA's administrative complaint in a timely manner, does not create any new rights or defenses, and will not affect EPA's decision to pursue this enforcement action.***

The Small Business and Agriculture Regulatory Enforcement Ombudsman and ten Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually rate each agency's responsiveness to small businesses. If you believe that you fall within the Small Business Administration's definition of a small business (based on your SIC designation, number of employees or annual receipts) and wish to comment on federal enforcement and compliance activities, call 1-888-REG-FAIR (1-888-734-3247). ***However, participation in this program does not relieve you of your obligation to respond to an EPA request, administrative or civil complaint or other enforcement action in a timely manner nor create any new rights or defenses under law. In order to preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.***

Dissemination of this information sheet does not constitute an admission or determination by EPA that your business, organization or governmental jurisdiction is a small entity as defined by SBREFA or related provisions nor does it create any new rights or defenses under law.

**SENDER: COMPLETE THIS SECTION**

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Dick Clarke  
c/o Gary F. franke, Esq  
120 E. 4th St. Suite 560  
Cincinnati, OH 45202

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